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# The Hay-Pauncefote Treaty

AND

## The Panama Canal

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SAMUEL L. PARRISH

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# The Hay-Pauncefote Treaty

AND

## The Panama Canal

THE UNITED STATES IS IN JUSTICE BOUND EITHER TO REPEAL,  
AMEND TO SATISFY GREAT BRITAIN, OR ARBITRATE  
THE CANAL TOLLS ACT,

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New York,  
25 Broad Street,  
January 20, 1913.

TO THE MEMBERS OF  
THE UNITED STATES SENATE,  
WASHINGTON, D. C.:

In considering the present relations of the United States and Great Britain, and the unfortunate complications which have arisen from the divergent interpretations placed by the governments of the two countries upon the provisions of the Hay-Pauncefote treaty as affecting the Panama Canal, the following historical international sequences may not be without interest.

First: That of the five European nations that undertook, in a spirit of rivalry, in the sixteenth and seventeenth centuries, to colonise the Western Hemisphere, Great Britain alone now shares with the United States, in American affairs, a position of important political responsibility toward the rest of the world.

Second: That with the elimination of France from North America by conquest and voluntary cession respectively, and by the further practical elimination of Spain through the successful revolts of her American Colonies in the beginning of the nineteenth century, the countries of the Western Hemisphere ceased to be subject to a change of sovereignty as the result of European wars, and this accomplished fact was announced to the world by the promulgation of the Monroe Doctrine.

Third: That this Doctrine owed, nevertheless, its continuous vitality to the readiness of Great Britain to join forces with the United States in its defense, for without the backing of the British fleet the United States would have been powerless to resist any considerable European coalition such as was threatened by the Holy Alliance.

Fourth: That the alignment of political and economic forces in both Europe and America during the nineteenth century thus brought the United States and Great Britain into close alliance as against the rest of the world, so far at least as the Western Hemisphere was concerned, though constantly engaged in bickerings and disputes as between themselves.

Fifth: That in view of their actual and potential pre-eminence as commercial and industrial nations, and from a desire to advance the cause of civilisation on lines peculiarly adapted to the promotion of their own activities and interests, combined with a sense of responsibility toward the world at large as joint guardians of the Western Hemisphere, the United States and Great Britain concluded, in 1850, the so-called Clayton-Bulwer treaty.

Sixth: That this treaty distinctly provided for an unfortified strip of artificial neutral sea between the Atlantic and Pacific oceans to be open to the whole world, as well as to themselves, on absolutely equal terms, in times both of peace and war, the canal having been conceived exclusively as a peaceful commercial water-way to be created for the "benefit of mankind", as was stated in so many words in Article VI of the treaty.

Seventh: That as a guarantee of good faith in this their declared purpose, both the high contracting parties agreed to use their best endeavors to induce the other nations of the world to enter with them into similar treaties for the neutralisation of the canal and for abso-

lute equality in its use, or, in diplomatic language to "adhere" to the Anglo-American treaty.

Eighth: That within fifty years from the ratification of the Clayton-Bulwer treaty, and before the construction of the Panama Canal had been undertaken by the Government of the United States, there occurred the following events of such transcendent importance as to entirely alter not only the relations of the United States and Great Britain toward each other, but also their respective relations toward the rest of the world.

1. As the result of the outcome of our Civil War, followed by an unexampled industrial and commercial expansion which included our Pacific coast, and as the result also of our Spanish War, the United States, for the first time in its history, became a powerful consolidated nation to be politically and economically reckoned with in both hemispheres.

2. The unexpected appearance on the scene of a united Germany in the form of an ambitious and actually and potentially aggressive military and naval empire, naturally seeking territorial and commercial expansion on both land and sea, necessarily at the expense of her rivals, whomsoever they might be.

3. The appearance of Japan as a world power in the Far East bordering on the Pacific.

4. The abrupt termination, through President Cleveland's Venezuela message in 1895, of the joint protectorate of the United States and Great Britain over the Western Hemisphere, and the assumption of that role by the United States alone to the exclusion of all other Powers.

Ninth: That with these developments before their eyes the American people became restive under the terms of the Clayton-Bulwer treaty, and regarded the first draft of the Hay-Pauncefote treaty as a surrender of their rights inasmuch as it still proposed to regard the

canal as a strip of neutral sea, and not as a part of their crucial coast line, and therefore, as such, entitled to fortification to the same extent as any other part of their territory.

Tenth: That the first draft of the Hay-Pauncefote treaty was therefore rejected by the Senate, but, at the time of the negotiation of the final treaty, the relations of the United States and Great Britain were of a peculiarly friendly nature, largely as the result of Great Britain's attitude at the time of the Venezuela crisis, and later during the period of our Spanish War, and that this friendly relation in the hands of two such men as Mr. Hay and Lord Pauncefote was bound to create a situation which made conciliation on our part a natural outcome of Great Britain's consent to annul the Clayton-Bulwer treaty, and then permit, without protest, the fortification of the canal.

Eleventh: That the result was the present treaty, ratified in December 1901, wherein, both in letter and in spirit are incorporated both the "general principle" and the specific terms of the Clayton-Bulwer treaty as to entire equality in the use of the canal by all nations, (in accordance with the Suez Canal rules adopted in 1888) **the United States by historical sequence and reasonable interpretation included**, minus only the non-fortification clause of the Clayton-Bulwer treaty, and minus also the clause wherein other nations were to be invited to "adhere" to the treaty.

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In view then of the above facts and conclusions it is submitted that Congress should either entirely repeal the present Canal Tolls Act, or so modify it as to be satisfactory to Great Britain, or, failing that, should submit the whole subject to arbitration. Should the latter course be adopted and an award be made against us, as it presumably would be (for the business of arbitrators is to



fairly interpret the written contract and not invade the domain of economic and racial evolution, which is the province of war) there will then be time for American public opinion, after carefully weighing the arguments on both sides, to come to a conclusion as to whether it is better to insist upon the abrogation of the present Hay-Pauncefote treaty and the substitution therefor of one that may more nearly appeal to its sense of justice, or to accept the conditions created by the present treaty, not forgetting that in the rapid evolution of international relations the time may not be far distant when we may be only too anxious to avail ourselves of the friendship and good will of Great Britain, especially in view of the complications that may well arise with the changed economic conditions that will ensue throughout the world upon the opening of the Panama Canal.

And further let it not be forgotten by those so recently elected to the highest national executive and legislative positions of authority, upon whom will presumably rest the responsibility of further negotiations, that American public opinion, as daily voiced in the columns of the responsible press of the country, sees in the interpretation of the present treaty no paltry and sordid question of the tolls of the canal, but rather a question wherein are involved the dignity, integrity, honor, and good faith of the United States. And beyond all that can be plainly discerned the further all important fact that upon the continued solidarity of the English-speaking world, conceived in the loftiest spirit of international good will, rests, in superlative degree, the future orderly progress of the world at large in the paths of civilization and of peace.

SAMUEL L. PARRISH.











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